

ADVISORY OPINION 2002-003

Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).

May 17, 2002

Hon. Jon Ackerson
11420 Bluegrass Parkway
Louisville, Kentucky 40299-2348

Dear Mr. Ackerson:

This is in response to your recent letter requesting an advisory opinion regarding shared expenditures in a Jeffersontown City Council and Mayoral election. You indicate that you are a candidate for Mayor of Jeffersontown and that five (5) of the sixteen (16) candidates for Jeffersontown City Council wish to “run” with you as a team. You further indicate that you are aware that “slating” is not permissible under Kentucky law.

Question 1: It is my understanding (please clarify) that I, along with council candidates for election this year may appear in the same newspaper ads, flyers delivered door-to-door and/or mailed and radio and/or TV advertising provided that information indicates that it is paid for by each of the respective candidates who are named in the newspaper ad, literature and/or appear in the TV ad or radio advertisement.

Provided that the advertisement is paid for out of each campaign’s individual campaign account and the campaign is properly identified as the purchaser of the advertisement in accordance with KRS 121.190 (1), your campaign may participate in joint advertising.

Question 2: Assume the newspaper advertisement/mailer/TV/Radio ad cost \$1,000.00. How is the cost allocated? Assume that I, as the mayorial candidate were to take 50% of the advertising space in the newspaper and the five (5) council candidates were to equally share in the balance of the newspaper space, or assume a 30 second radio commercial in which 20 seconds of the commercial talked about my candidacy and the remaining 10 seconds talked about the other five (5) candidates, how much of the total cost would each candidate pay?

Although 32 KAR 2:060(2) prohibits the Registry from issuing advisory opinions with respect to hypothetical questions, KRS 121.180(10) clearly prohibits a candidate from using "funds solicited or received for the person...to further the candidacy...of any other person for public office...." Therefore, a campaign committee may pay only for the proportionate cost of the advertisement which furthers its campaign. (See KRS 121.175 (1))

This opinion reflects the Registry's consideration of the specific transaction posed by your letter. If you have any additional questions, please do not hesitate to contact the Registry staff.

Sincerely,

Rosemary F. Center
General Counsel

RFC/pm

Cc: Registry Members

Sarah M. Jackson
Executive Director